

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

LARRY D. LEE,

Petitioner,

v.

Case No.10-12202

CAROL HOWES,

Respondent.

**ORDER DIRECTING RESPONDENT TO FILE A SUPPLEMENTAL RESPONSE
AND SUPPLEMENT THE RECORD IF NECESSARY**

Petitioner Larry D. Lee filed a *pro se* petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, challenging his convictions for third- and fourth-degree criminal sexual conduct. On December 13, 2010, Respondent Carol Howes filed a response, which failed to address the first ground upon which Petitioner seeks habeas relief. Petitioner claims that the trial court denied him his Sixth Amendment right to represent himself. The record contains letters suggesting Petitioner informed his appointed counsel and the court of his demand to appear *pro se*, but it does not indicate that counsel ever filed a motion to withdraw or that the court ever acknowledged Petitioner's invocation of his right to represent himself under *Faretta v. California*, 422 U.S. 806, 821 (1975). (Pet. App'x A & B.) The Sixth Circuit has held that failure to allow a competent defendant to represent himself violates a clearly established constitutional right, for which a writ of habeas corpus may issue pursuant to 28 U.S.C. § 2254. *Jones v. Jamrog*, 414 F.3d 585 (6th Cir. 2005). Respondent has addressed only Petitioner's claim regarding substitution of counsel. Therefore, the court will direct Respondent to

file a supplemental brief addressing Petitioner's claim that the trial court violated his right under the Sixth Amendment and *Faretta*. The court will further permit Respondent to supplement the record with any additional material necessary to the determination of this matter. Accordingly,

IT IS ORDERED that Respondent Carol Howes is DIRECTED to file a supplemental response on or before **August 3, 2011**, addressing Petitioner's claim regarding his right to represent himself pursuant to *Faretta v. California*, 422 U.S. 806, 821 (1975). Respondent may supplement the record with any further material regarding this claim.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: July 12, 2011

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, July 12, 2011, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522